

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

ALICJA PALKA,)
v.)
Plaintiff,)
WAL-MART STORES, INC., a foreign)
Corporation; ANA RODRIGUEZ, agent of)
WAL-MART STORES, INC.,)
Defendants.)
No. 18-cv-7996

NOTICE OF REMOVAL

NOW COMES Defendant, **WALMART INC.**, formerly known as Wal-Mart Stores, Inc., (“Walmart”) by and through its attorneys, James P. Balog and Lucas Sun, and pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, removes this action to the United States District Court for the Northern District of Illinois, and in support thereof, state as follows:

PLEADINGS AND BACKGROUND

1. The movant's Notice of Removal is based upon subject matter jurisdiction conferred by diversity of citizenship, as established in 28 U.S.C. § 1332.

2. This matter arises out of an incident, which occurred on November 2, 2016 at the Walmart located at 8500 W. Golf Rd., Niles, Illinois. Plaintiff filed a Complaint in the Circuit Court of Cook County, Law Division, styled ALICJA PALKA v. WAL-MART STORES, INC., a Foreign Corporation, and ANA RODRIGUEZ, agent of WAL-MART STORES, INC., bearing Case No. 2018 L 011533. (See Exhibit A, Plaintiff's Complaint at Law).

3. Walmart first received Plaintiffs' Complaint when it was served with process on November 5, 2018. (See Exhibit B, Service of Process Transmittal).

4. In response to the Complaint, Walmart filed its Appearance, Jury Demand, and on November 21, 2018. (See Exhibit C, Appearance and Jury Demand).

BASIS FOR DIVERSITY

5. Both at the time of the commencement of the State Court action and at the present time, Defendant, Walmart, is a Delaware Corporation and its executive headquarters are located in Bentonville, Arkansas. (See Exhibit D, Arkansas Secretary of State Business Information Search).

6. A corporation has a single principal place of business where its executive headquarters are located. *Metropolitan Life Ins. Co. v. Estate of Cammon*, 929 F.2d 1220, 1223 (7th Cir. 1991). Therefore, at all pertinent times, Walmart is and has been a citizen of Arkansas.

7. Defendant, ANA RODRIGUEZ, while admittedly a citizen of Illinois, is an improper party to this claim pursuant to the doctrine of Fraudulent Joinder under F.R.C.P 21. (See Exhibit E, Defendant's Motion to Dismiss Ana Rodriguez for Fraudulent Joinder).

8. At all times relevant, Plaintiff was and remains a citizen of Illinois.

9. Plaintiff informed Defendant pre-suit that she incurred "at least \$79,240.19 in medical bills" and that her demand was \$400,000.00.

10. With the first notice that there was a lawsuit filed and both the claimed amount in controversy exceeded \$75,000 and that Plaintiff is a citizen of Illinois (thereby fulfilling diversity requirements) occurring on or about November 5, 2018 (when Defendant was served with the Complaint), this Notice was filed within thirty (30) days of "receipt by the defendant[s], through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable." 28 U.S.C. § 1446(b)(3).

11. As required by 28 U.S.C. § 1446(d), the movant will promptly serve upon Plaintiffs' counsel, and file with the Circuit Court of Cook County, a true and correct copy of this Notice.

12. By removing this action, Defendant does not waive any defenses available to it.

13. If any question arises as to the propriety of the removal of this action, the movant requests the opportunity to present a brief and oral argument in support of its position that this case is removable.

14. This Notice is signed and in compliance with Rule 11 of the Federal Rules of Civil Procedure.

WHEREFORE, Defendant, WALMART, INC., prays that this Honorable Court retain jurisdiction of the matter pursuant to 28 U.S.C., §§ 1332, 1441, and 1446.

Dated: December 5, 2018

Respectfully submitted,
O'HAGAN MEYER LLC

By: /s/Lucas Sun
One of the Attorneys for Defendant,
Walmart, Inc.

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